IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

Writ Petition No.30175 of 1997
DATED 30-3-2007

BETWEEN
Shankaraiah Goud

.. Petitioner

And

The Regional Manager,
A.P.S.R.T.C. Picket,
Secunderabad.

.. Respondent

THE HONOURABLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.30175 of 1997

ORDER:

Aggrieved by the order of the respondent dated 29.3.1997, whereby the punishment of removal from service imposed by the disciplinary authority was set aside and the petitioner was directed to be reinstated into service as Conductor Grade-II subject to certain terms and conditions, the present writ petition is filed.

The facts in brief are that while he was conducting the bus, on route No.171 Jeedimetla to Gajularamaram, a surprise check was exercised by the checking officials and, on finding certain irregularities, a charge sheet was issued to the petitioner alleging

that he had failed to issue tickets despite collecting the fare of Rs.1.50 each from two passengers who were found alighting from the bus. On the petitioner's explanation not being found satisfactory he was placed under suspension, by order dated 22.8.1996, and an enquiry was conducted into the charge. Based on the enquiry report, the respondent issued show cause notice dated 4.11.1996 enclosing a copy of the enquiry report and on receipt of the petitioner's explanation thereto, the disciplinary authority, vide order dated 14.11.1996, imposed on him the punishment of removal from service. Aggrieved thereby, the petitioner preferred an appeal to the Divisional Manager, which was rejected by order dated 16.1.1997. Against the said orders the petitioner preferred a review petition before the respondent who, by order dated 29.3.1997, reinstated the petitioner as Conductor Grade-II subject to the following terms and conditions.

1) "Petitioner shall be reinstated into service as conductor Grade II duly reducing his pay by two incremental stages from Rs.2085/- to Rs.1975/- in the scale of Rs.1645-55-2140-65-2595-70-3155/- with having an effect of postponement of future increments for a period of two years.
2) The period from the date of his removal till date of his reporting for duty at the unit posted on reinstatement shall be treated as not on duty for all purposes viz., PF, gratuity, leave, increments, promotion, seniority etc.,
3) He should pay fresh security deposit.
4) His reinstatement shall be subject to medical fitness for A-2 category in the medical examination and production of valid conductor licence.
5) He should pay back all dues viz., festival advance, short remittance of bus cash and other

amounts, if any, pending due prior to the date of his removal from service and submit no due certificate from Depot Manager, Jeedimetla Depot as well as Accounts Officer (Hyderabad City Region) at Rathifile, Secunderabad."

The only contention raised by Sri S.Pradeep Kumar, learned counsel for the petitioner, is that the punishment imposed on the petitioner is grossly disproportionate to the charge held established. Learned counsel would submit that, even if the charge levelled against the petitioner is held to have been established, it relates merely to not issuing tickets to two passengers of Rs.1.50 each i.e. for a sum of Rs.3/- for which imposing a major penalty of reduction in pay by two increments, which will have the effect of postponing future increments for a period of two years, is grossly disproportionate. Learned counsel would further submit that the petitioner was denied the benefit of having the period of his absence, from the date of his removal till he reported for duty, reckoned for the purpose of his terminal benefits, promotion and seniority, that he was required to pay fresh security deposit and also pay back all the advances which were given to him earlier. Learned counsel would submit that for such a trivial mis-conduct, a major punishment ought not to have been imposed by the respondent herein.

In **Karnataka State Road Transport Corporation v. B.S.Hullikatti**[1], the Supreme court observed that it is the responsibility of bus conductors to collect correct fares from the passengers and deposit the same in the Corporation, that

conductors act in a fiduciary capacity, it would be gross misconduct if knowingly they did not collect any fare or the correct amount of fare and that, in such cases, interference with the punishment of dismissal from service was a case of misplaced sympathy by the Labour Court. In **Regional Manager, Rajastan State Road Transport Corporation v. Ghanshyam Sharma**[2], the Supreme court held that the proved acts amounted either to a case of dishonesty or of gross negligence and bus conductors, who by their actions or inactions cause financial loss to the Corporation, are not fit to be retained in service. In **V.Ramana v. APSRTC**[3], the Supreme court held that Courts/Tribunals should not interfere unless the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the Court/Tribunal.

While it is true that the charge held established relates to not issuing tickets to two passengers of Rs.1.50 each, and the amount involved is only Rs.3/-, it cannot also be lost sight of that this Court, in proceedings under Article 226 of the Constitution of India, would not sit in appeal over the nature and extent of punishment imposed for proved acts of mis-conduct, for these are all matters in the employer's realm. It is only when the punishment imposed is one which could not have been imposed under the Regulations or is the one which shocks the conscience of this Court, would there be any justification in interfering in the matter. Though the sum involved is only Rs.3/-, the fact remains that the petitioner has misappropriated this amount belonging to the Corporation. It is not the amount involved, but the nature of mis-conduct, which would weigh with the authorities concerned in deciding on the punishment to be imposed.

It cannot be said that for the charge of misappropriation, albeit, for a small sum of Rs.3/-, the punishment of withholding two increments which would have an effect of postponing the increments for a period of two years, cannot be imposed.

With regard to the petitioner's contention that in addition he was imposed the penalty of treating the period of his absence, from the date of his removal till the date of his reinstatement, as not on duty, it is well to remember that the period of absence is required to be regulated. The competent authority has reckoned the period of absence, from the date of petitioner's removal from service till the date he reported back for duty, as not on duty. Regulating the period of absence cannot be said to be a punishment imposed for proved acts of mis-conduct. The apprehension expressed by Sri.S.Pradeep Kumar, learned counsel for the petitioner, that even the services rendered by the petitioner prior to the date of his removal would be lost, is without basis. The period from the date on which the petitioner was removed from service till the date he reported back for duty alone has been treated as not on duty. The services rendered by the petitioner prior to the date of his removal from service would be reckoned for all purposes since, under the order of the respondent the petitioner has been reinstated into service. Consequence of reinstatement is that the petitioner is put in the same position which he held prior to the date of his termination and, consequently, the services rendered by him prior thereto would be reckoned for all purposes. Since the only contention urged by the learned counsel for the petitioner does not merit acceptance, the writ petition fails and is accordingly dismissed.

RAMESH RANGANATHAN,J

Dt: 30.3.2007
msv.

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[1] AIR 2001 SC 930
[2] 2002(1) LLJ 234
[3] AIR 2005 SC 3417